

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Philip Wruck,

Civ. No. 09-1973 (MJD/JJK)

Petitioner,

v.

Warden Timothy Wengler,

ORDER

Respondent.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeffrey J. Keyes dated December 8, 2009. No objections have been filed to that Report and Recommendation in the time period permitted.

Based upon the Report and Recommendation of the Magistrate Judge, upon all of the files, records, and proceedings herein, the Court now makes and enters the following Order.

IT IS HEREBY ORDERED that:

1. Respondent's Motion to Dismiss Petition for Writ of Habeas Corpus (Doc. No. 12), is **GRANTED**;
2. The Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 (Doc. No. 1), is **DENIED**; and
3. This action is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY

Date: January 4, 2010

s/Michael J. Davis
MICHAEL J. DAVIS
Chief Judge
United States District Court

